

The Special Meeting of the City Council of the City of Panama City Beach, Florida, regarding the Lamar Sign Variance Hearing, held on June 23, 2016.

ROLL

MAYOR MIKE THOMAS
COUNCILORS:
JOHN REICHARD
PHIL CHESTER
JOSIE STRANGE
HECTOR SOLIS

CITY MANAGER:
MARIO GISBERT
CITY CLERK:
DIANE FOWLER
CITY ATTORNEY:
AMY MYERS

Mayor Mike Thomas called the Special Meeting to order at 1:00 P.M. This Hearing pertained to a Variance Request filed by Lamar Advertising. Mayor Thomas asked City Attorney Amy Myers to conduct the Hearing and explain the procedures regarding Variance Hearings and Quasi-Judicial Hearings for the new Council members.

Ms. Myers asked each Council Member for their Jennings Disclosures and requested any e-mail communications be forwarded to Executive Administrative Assistant Jo Smith for the record.

Councilman Reichard – Aware of the property and spoke with Mr. Mel Leonard & Mr. Mario Gisbert.

Councilman Chester – Aware of the property and spoke with Mr. Leonard.

Mayor Thomas – Aware of the property and spoke with Ms. Myers.

Councilwoman Strange – Aware of the property and spoke with no one regarding the matter.

Councilman Solis – Aware of the property and spoke with Ms. Myers and Mr. Doug Sale.

Ms. Myers began the Hearing by explaining that the Council Members would be allowed to ask questions of the presenters, witnesses would be sworn, and the decision would be reduced to writing which would come back at the July 14, 2016 Regular Council meeting.

Ms. Myers explained that Lamar Advertising had filed a request to increase the height of an off-premise replacement sign by thirteen (13) feet and permission to relocate the off-premise sign approximately eighty-four (84) feet from a residentially zoned parcel. The land considered in the Variance is located at 13405 Panama City Beach Parkway, at the intersection of Dogwood Road.

Witnesses were sworn. Ms. Myers introduced the standards for the hardship review.

Variance 1: Height Variance – Request was made to determine if a literal enforcement of the height limitation would result in an unnecessary hardship on the owner of the replacement sign or the owners of the property adjoining the replacement sign.

Variance 2: Placement Variance – Lamar Advertising requested that the replacement sign be located nearer to the residential area than what the Sign Code allowed. The current Sign Code stated that any off-premise signs needed to be located one hundred twenty-five (125) feet from residential zones. The Variance requested the replacement sign be located eighty-four (84) feet from the residential zone. The Council was instructed to make a Finding based on the evidence presented, what was known of the neighborhood, and what was unique about the relationship of this particular sign to the residential neighborhood which would warrant a Variance reduction from the one hundred twenty-five (125) feet to eighty-four (84) feet.

Ms. Myers asked for questions before continuing. Councilman Reichard asked for clarification on what was being requested about the height. Ms. Myers responded that Lamar was asking for the sign to be thirteen (13) feet higher.

Mayor Thomas recounted that in order for a Variance to be granted, it must be shown that there was a unique need, no matter what the standard. Ms. Myers further clarified any Variance required a hardship. The particular hardship with regard to the height would be a literal sight limitation for the owner of the property or the adjoining owners. The unique hardship of the placement would be related to the relationship between the sign owner and adjoining properties and what hardships it might cause.

Mr. Mel Leonard, Building and Planning Director addressed the Council. He recapped that the site was located across from the Colony Club area and was at the current construction site of the Therapy One building. The request was made to locate the sign twenty-five (25) feet off the front of the property line and five (5) feet off the property line at the side street. The old sign had been located generally in the middle of the property and was taken down for the construction of the new building. The old sign was twenty-two (22) feet in height and the proposed sign was thirty-five (35) feet in height for a difference of thirteen (13) feet. The old sign was four hundred (400) square feet in size and Lamar proposed this sign to be three hundred seventy-eight (378) square feet, a reduction of twenty-two (22) square feet. The old sign was one hundred nine (109) feet from the residential zoning district to the south and the requested distance for the new sign was eighty-four (84) feet. The staff report indicated the Variance Request did not satisfy four (4) of the standard criteria, which Mr. Leonard read from Section 9.03.03 of the Land Development Code:

- #1 – There is a specific hardship affecting the Development of the Lot resulting from the strict application of the provisions of the Land Development Code;
- #2 – The hardship is not a result of actions of the owner and is not based solely on a desire to reduce Development costs;
- #3 – The need for the proposed Variances is due to the physical shape, configuration, or topographical condition of the Lot in such a manner that to distinguish it from other adjacent or nearby lots, or from other Lots in the district;
- #4 – The proposed Variance is necessary to preserve the substantial property right or such property right is generally available to other property owners of adjacent or nearby Lots or other Lots in the district.

He further reported the Staff Report did not indicate, as previously mentioned by Ms. Myers, that because it was an off-premise sign there was some importance about distinguishing if there was a difference about the separation from the residential district to this sign and whether there was something unique about this property that was not shared by other properties throughout the city, on that matter alone. Mr. Leonard showed a current picture of the construction of the building, as well of a number of pictures showing the location of the old sign. He continued that off-premise signs were unique in that the Variance comes directly to the City Council without the benefit of the Planning Board reviewing it. All other variances come to the Planning Board and then if appealed, it would come before the Council.

Councilman Solis asked where the old sign had been located versus the proposed relocation. Mr. Leonard showed the proposed location on the map – twenty-five (25) feet off the front property line and five (5) feet off the side street. The new location conformed to the existing requirements with the exception of the proximity to the residential zone.

Ms. Myers called Lamar representative Kristi Morgan, Real Estate Manager, to the podium for testimony. Ms. Morgan stated this action was initiated due to the new building development of Therapy One. Lamar remained very pro-business and wanted to work with their landowners so they could continue rental income for many years. Lamar was asking for an increase in the sign height by thirteen (13) feet and in turn reduce the square footage of the sign face by twenty-two (22) square feet. The original sign was located approximately one hundred nine (109) feet from residential so it was already beyond the residential spacing requirement. The new sign would be located exactly twenty-five (25) feet closer to residential zone. Ms. Morgan opened the floor to questions from the Council.

Councilman Solis asked how long the original sign had been in place. Ms. Morgan responded “decades.” Councilman Solis made the comment that it was in place prior to the City drafting new regulations on signs and was “grandfathered.” The configuration of the new building was prohibiting the sign from going back to its original location. Ms. Morgan further commented that they felt they had the right to rebuild on the same property but with the configuration of the new development, the location of the sign needed to change.

Mayor Thomas commented that a hardship must be shown. He questioned why Lamar Advertising decided on this particular piece of property. Ms. Morgan answered that it was the sign’s original location and their business had established a great relationship with the landowner.

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Mayor Thomas commented Lamar knew going into this process that the sign was nonconforming. He further added that when the drawings or plans were completed, Lamar was aware of the conflict being faced. Mayor Thomas felt the hardship was created when Lamar made the choice to try to stay on the same piece of property, requiring a Variance.

Ms. Morgan responded that Lamar considered another piece of property to the east across the street from Dogwood but it would have placed the sign even closer to the residential zone. Ms. Claire Sherman, General Manager of Lamar Advertising, added that they explored other options but due to spacing requirements and other landowner issues, they were “stuck” on this piece of property. Mayor Thomas recounted that under the Cap and Replace Ordinance, Lamar would be allowed to replace the sign but it did not necessarily give them the right to replace it in the exact same location. Ms. Sherman continued that the company was trying to find a location on Panama City Beach Parkway that would give them the exact same DEC count and exact same value of the board; however, one could not be located that fit the criteria. Lamar’s extensive research left them with the understanding this was one of the last pieces of property on the Parkway in which they could place the sign. Lamar’s position was that was the hardship on their business – there were no other properties on Panama City Beach Parkway that would yield the same value.

Ms. Morgan said she did not feel the Cap and Replace Ordinance was applicable to this situation. She stated Lamar had the right to rebuild on the property under Section 5.07.06, Section E. Mayor Thomas agreed that Lamar could rebuild on the property but under the rules without having to obtain a variance, confirmed by Mr. Leonard. Ms. Morgan added that if Lamar built the same sign on the property in the same exact spot, it would block the new building.

Councilman Solis commented that the hardship was created when the property owner decided that there was more value in building out the piece of property to make more income. The hardship was created for Lamar by the decision of the property owner to construct a new building, not any other factors. It was a self-imposed hardship. He felt a hardship would be created if the sign was relocated close to the residential homes, with the lighting that would be projected upon them. Councilman Solis said he concurred with the Mayor that it appeared the hardship was created when the landowner decided to make more use of the land which caused a conflict with the sign.

Ms. Sherman asked the Council if there were any remaining questions. Councilman Chester asked why the height of the sign needed to be increased. Ms. Morgan responded the ground clearance was only eleven (11) feet and in order to keep to uniformity with other billboards, keep ground clearance, and not obstruct view of the building, the sign needed to be raised. She further added the sign would go from five (5) I-beam poles to one (1) galvanized steel pole, bringing it up to code.

Councilman Reichard asked the zoning of the lot behind the property. Councilwoman Strange answered that it is residential. Ms. Sherman said that Lamar wanted to remain business friendly with the landowner with whom they had a relationship for decades and there was no other place on the Parkway within County or City that was open for the placement of a billboard. Councilman Reichard inquired what was Lamar’s next plan if the variance was not approved. Ms. Sherman responded that there was no back-up plan as there was no other place to move the sign. They would lose the sign completely and it would go into reserve for possible future use but it would have to be on a sub-standard road. The location on Panama City Beach Parkway yielded higher rental rates due to visibility. There would be no other locations of that caliber.

Ms. Sherman addressed the concerns regarding the lighting to the residential area. She stated that all the boards turned off at midnight, and the lighting shined upward with only one LED light on each side. Ms. Morgan added Lamar did not feel the lighting would change from before because of the wooded area in the residential lot. Councilman Solis rebutted that the increased height would have an impact on the lighting concern as raising it above the tops of trees could add to the glow of the sign.

Councilwoman Strange asked the requirement for the distance between signs. Ms. Morgan answered fifteen hundred (1,500) feet. Councilwoman Strange said she felt there was a plethora of billboards on the Parkway already and asked how the six-laning of the Parkway would affect them. Using the example of the 390 project, the Lamar representatives explained that they had

been working with FDOT, Panama City and Bay County. Their other signs had been taken down little by little, so they felt they needed to keep all that they could in order to stay afloat. It had been a challenge to find new homes for the twenty-two (22) signs affected within that project. If new homes for those signs cannot be found, FDOT and/or the local municipality would be required to pay for a total taking.

Ms. Myers asked if there were any members of the public that wanted to speak for or against the application. Hearing none, Ms. Myers asked if there was any response to the mailed letters. Mr. Leonard responded that letters were sent to properties within one hundred fifty (150) feet and there were no letters, emails or phone calls in response either way from anyone. Ms. Myers stated the Public Hearing was published in the News Herald at the beginning of the month.

Councilwoman Strange made a motion to deny both Variances. Councilman Chester seconded the motion. The motion passed by unanimous roll call vote as follows:

Councilman Reichard	Aye
Councilman Chester	Aye
Councilwoman Strange	Aye
Councilman Solis	Aye
Mayor Thomas	Aye

Ms. Myers concluded the Hearing and stated she would prepare the order and have ready for confirmation at the next Council meeting.

Mayor Thomas adjourned the meeting at 1:30 P.M.

READ AND APPROVED this 14th of July, 2016.

IN THE EVENT OF A CONFLICT BETWEEN THE FOREGOING MINUTES AND A VERBATIM TRANSCRIPT OF THESE MINUTES, THE FOREGOING MINUTES SHALL CONTROL.

ATTEST:



City Clerk



Mayor